



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII, MONTANA OFFICE  
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096  
HELENA, MONTANA 59626-0096

96055  
EL-2

*water quality from accelerated  
logging & Road building.*

Ref: 8MO

November 26, 1996

Mr. Robert L. Schrenk  
Forest Supervisor  
Kootenai National Forest  
506 U.S. Highway 2  
Libby, Montana 59923

*Not enough assessment of impacts  
from development (residential mining)*

Re: Checkerboard Land Exchange  
Final Environmental Impact  
Statement

Dear Mr. Schrenk:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency (EPA), Region VIII, Montana Office has reviewed the above-referenced Final Environmental Impact Statement (FEIS).

As stated in our DEIS comments the EPA recognizes and acknowledges that resource management and protection trade-offs are involved with the proposed land exchange. The land exchange would result in adding protection to the Checkerboard Tracts in terms of reduced roading and timber harvest (i.e., 5,112 fewer acres harvested and 164.8 fewer road miles constructed) and would transfer the roading and harvest impacts to the Libby/Fisher Tracts (i.e., 5,928 more acres harvested and 161.8 more road miles constructed).

The consolidation of land ownership and management in the Checkerboard Tracts would allow maintenance of a large, relatively roadless landscape preferred by the grizzly bear, and protect roadless recreational opportunities. The land exchange would also result in a net gain in Forest Service ownership of 57.5 acres of floodplains and 45 acres of wetlands, and an overall net loss of 409 acres of old growth forest. We acknowledge these resource trade-offs and on balance we support land exchange. While on balance we support the land exchange, we do remain concerned about the following issues:

#### Water Quality

We are concerned that future watershed and water quality impacts may occur in the exchanged Libby/Fisher Tracts as a result of expedited logging activities by the Plum Creek Timber



Company (PCTC). As noted in our DEIS comments 43% of lands in the Libby/Fisher tracts to be exchanged have already been harvested and road density and harvest units per square mile are already high compared to other parts of the KNF (page 3-54). With the preferred alternative, three watersheds in an existing "red" condition, Raven Creek, a Kootenai River tributary, and a McGregor Creek tributary have additional harvesting and road building planned by PCTC, doubling the road density and aggravating stream instability. Raven Creek is included on Montana's list of impaired surface waters (1994 Montana 305(b) report), and it would appear that the other two streams should be listed.

The "red" condition indicates that existing watershed conditions may be unacceptable because at least one of the factors is double the threshold condition, or a field review has documented an existing watershed problem, or threshold conditions were nearly reached and local information suggests watershed damage (page 3-25).

The response to public comment on page 5-73 of the FEIS acknowledges that PCTC will harvest in the project area at about 10 times the rate planned by the Forest Service. We are concerned that such expedited logging may have adverse impacts upon water quality and watershed conditions, particularly where there are existing watershed problems.

We did not see additional information presented in the FEIS describing the modifications and mitigations to PCTC's conceptual harvest plan that would accomplish protection of watersheds, water quality and fisheries. We also did not see additional mitigation or monitoring proposed to better assure protection for water quality and fisheries in the exchanged tracts.

All we saw in the FEIS was a statement that the Libby/Fisher tracts were in the lowest precipitation zone of the Kootenai forest; and a statement attributed to a forest hydrologist that "the area has historically been able to support higher road densities and timber harvest than other portions of the forest without showing degraded conditions" (pp 5-19).

We do not understand the hydrologist's statement since the DEIS indicates that degraded conditions (i.e., "red" conditions) exist in the Libby/Fisher tracts (see Table 3.2 of the EIS, pp 3-23). We believe it is likely that beneficial uses would be threatened by additional harvesting and road building in watersheds with "red" conditions, thus potentially violating Montana's Water Quality Standards and Nondegradation Policy.

We believe that additional harvesting and road building in degraded watersheds should be deferred until watershed conditions have stabilized. At the very least BMP effectiveness monitoring and beneficial use verification should be conducted in the exchanged parcels to assure compliance with Water Quality



Standards.

The EPA believes the specific modifications and mitigations to restore degraded watersheds, water quality, and fisheries should be presented in the FEIS to demonstrate that watersheds will not be further degraded and that compliance with Montana's Water Quality Standards and Nondegradation Policy will be achieved. We believe the EIS would better meet its public disclosure purposes if there was improved explanation regarding compliance with Water Quality Standards.

While we are pleased to see PCTC's stated commitment to meet all state and federal regulations that would require them to change any management activity that would not meet their goal to protect and enhance beneficial uses, we are concerned that there are inadequate resources within the State agencies to follow up on and verify that water quality degradation does not occur.

We are drawing this concern to the attention of the Montana Department of Environmental Quality and to EPA's Regional coordinator for Total Maximum Daily Loads (TMDLs) and Regional Water Quality Standards coordinator to help focus attention on this matter.

#### **Future Mine Development**

We are also concerned that the acquired lands would be available for mineral entry and potential future mine development (ROD pp 16). If mine development occurred in the future it could adversely impact the purpose of the land exchange (i.e., grizzly bear recovery). We note that the DEIS indicates that drill exploration in the southern portion of the Checkerboard tracts reportedly located an occurrence of Revett-type copper/silver mineralization similar to what Noranda Minerals Corporation and ASARCO propose to mine from their Montanore and Rock Creek projects, which are located several miles to the west of the Checkerboard tracts (page 3-5). We ask if it would be appropriate to consider mineral withdrawal in the Checkerboard tracts to protect the purpose of the land exchange?

#### **Future Real Estate Development**

Finally, we are also concerned about the potential for the land exchange to facilitate future development, including possible real estate development by the PCTC in portions of the Libby/Fisher Tracts at some point in the future. Such subdivision development could adversely impact environmental resources including fish and wildlife habitat.

We note the FEIS response to our concerns regarding future subdivision development on the exchanged tracts indicated that the U.S. Court of Appeals, Eighth Circuit, issued an opinion on March 7, 1991 that EIS's for land exchanges need not consider impacts of future purchasers of exchanged land (i.e., "When the



government sells or exchanges federal land, it must consider environmental impact of proposed use of federal land by private purchaser, but need not consider possible impact by use of hypothetical subsequent purchaser since once land passes into private hands later sales are no longer subject to NEPA"; FEIS pp 5-40).

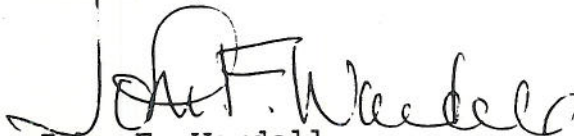
Upon review of this court decision (we thank your staff for Faxing us a copy) we note the decision indicated that the Forest Service was required to consider the effects of planned subdivision development on the exchanged land. For that decision (Lockart vs. Kenops) it was clear that the exchanged land would be subdivided and developed, and impacts of such subdivision development were evaluated in an environmental assessment, (although the court decision indicated the Forest Service's consideration of some points was not as careful as it could have been). For the Checkerboard land exchange the PCTC's reported use of the exchanged land is for timber management, and there is no consideration of the potential for future subdivision development by PCTC.

We note that growth and development is occurring on previously undeveloped land in many areas of western Montana, and that the PCTC has pursued land development in other areas. Also, the CEQ's Forty Most Asked Questions Concerning the NEPA Regulations (Question 18) suggests that it will often be possible to consider development trends in determining the likelihood that exchanged land may be developed at some point in the future.

We believe at a minimum the EIS should have disclosed that the Checkerboard land exchange could facilitate future real estate development by the PCTC in the exchanged tracts, even though PCTC has not announced any such plans, and the occurrence and extent of future development on the exchanged tracts is difficult to predict. We are concerned that the Forest Service is inadequately considering and disclosing the possibilities of future subdivision development during land exchanges.

The EPA appreciates the opportunity to review and comment on the FEIS. If we may provide further explanation of our concerns please contact Mr. Steve Potts of my staff in Helena at (406) 441-1140 ext. 232.

Sincerely,

  
John F. Wardell  
Director  
Montana Office

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